The Vice-Chancellor (Sir Lancelot Shadwell), in delivering his opinion, says, on page 347 :—

"But . . . my opinion is that there has been an error, which this Court will set right, namely, that when the directors thought to make the calls as they did, they stopped short of that which was their duty, and that they ought to have gone on to direct the same sums to be paid on each of these shares as had been directed to be paid upon the other shares. . . .

"Therefore, it is evident that in whatever manner it is to be done, this Court will rectify the error that has been made, and will take care that all the shareholders shall be put upon the same footing with respect to the liability to pay calls."

And knowledge of such an agreement at the time when the assessments were levied would not have justified the plaintiff in refusing to pay the same. *Dorman* v. *The Jacksonville Plank Road Co.*, 7 Fla. 265; *The Macon & Augusta R. R. Co.* v. *Vason*, 57 Ga. 314.

In *Macon & Augusta R. R. Co.* v. *Vason* the action was brought to collect an assessment. The defence set up was, that the directors had permitted other stockholders to pay their subscriptions in Confederate money, and that this act of the directors was illegal. The Court admitted the illegality, but held that it was no defence, saying:—

"We see no authority in the charter whereby the directors were empowered so to act. It seems to have been done *ultra vires* beyond the authority conferred, and the only trouble to the defence seems to be that no stockholder was released from legally called-for instalments by this illegal action of the board of directors, and that such instalments can still be collected from them in good money; or, at least, they can be made to contribute on a proper case made equally with this defendant."

The case, then, is reduced to this, the directors having called upon the stockholders for a payment of a portion of their stock subscription, the plaintiff, because of a want of confidence in the directors, sold his stock to the defendant. Under these circumstances he is not entitled to the relief prayed for.

The demurrer is sustained.

LECTURE NOTES.

OF THE LANGUAGE NECESSARY TO CREATE A TRUST. — (*From Professor Ames' Lectures.*)—Whether an instrument creates a trust is a question of fact in each case. The tendency now is to give the words their fair meaning, and many of the old cases would be decided differently at present.

If the distribution among the beneficiaries is left to the honor of the legatee or grantee there is no trust; he must be bound legally.

If property is left to "A, to pay debts," the residue, after the debts have been paid, will go to the testator's representatives; but, if the property is left "subject to the payment of debts," the residue goes to the trustee.

DEFINITION OF EVIDENCE. — (*From Prof. Thayer's Lectures.*)— The state of being clearly seen is the etymological meaning of the word. The French call those things evident which do not need proof, and